

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Telephone Number Portability)	CC Docket No. 95-116
The North-Eastern Pennsylvania Telephone Company)	
Petition for Waiver of Section 52.23(b) of the)	
Commission's Rules)	

**REPLY COMMENTS
OF THE
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION**

The National Telecommunications Cooperative Association (NTCA)¹ hereby submits Reply Comments in the above-referenced proceeding. NTCA supports the request of North-Eastern Pennsylvania Telephone Company (NEP) that it be granted a limited and temporary waiver of the Commission's local number portability (LNP) deadline.

As an initial matter, it is important to note that NEP is moving toward full compliance with its LNP obligations. It is not requesting that it be relieved of its LNP obligations, nor is it asking for unlimited time during which to become compliant. NEP, like many other similarly situated companies, is in the process of upgrading and changing out equipment to become compliant as quickly as possible.

¹ NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents more than 560 rural rate-of-return regulated telecommunications providers. All of NTCA's members are full service incumbent local exchange carriers (ILECs) and many of its members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a "rural telephone company" as defined in the Communications Act of 1934, as amended (Act). NTCA's members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

NEP knew of its potential LNP obligations, but due to its rural nature, it was never required to provide intramodal porting. It could not have anticipated receiving the requests for intermodal porting, nor could it know which carriers would be permitted to make such a request until the Commission issued its “clarification” of its rules. Without a request for LNP or clear guidance from the FCC² it would have been financially irresponsible for NEP to spend the resources necessary to upgrade its system for no reason other than to provide LNP. Now that NEP has a request for LNP, it is moving toward full compliance.

It is ludicrous that the large wireless carriers are opposing NEP’s temporary waiver request with such vigor. They cite carrier and customer expectations created by the Commission’s deadlines as reasons to deny the waiver.³ CTIA argues that the temporary waiver would “disadvantage wireless carriers in the NEP service area that spent substantial amounts to upgrade their facilities in expectation of receiving intermodal ports on May 24, 2004.”⁴ In truth, there has been little consumer demand for wireline to wireless porting and the large wireless carriers will in no way be disadvantaged by the temporary waivers of small LECs serving only a few thousand access lines.

The way the large wireless carriers read the rules, no carrier could qualify for waiver of the LNP requirements. Nextel asks the Commission to deny the request and reaffirm that all carriers have an obligation to port as of May 24, 2004.⁵ It complains that

² The Commission recently acknowledged the “special circumstances” existing for incumbent LECs due to “multiple extensions of the intermodal LNP deadline and associated uncertainties.” BellSouth Corporation Petition for Declaratory Ruling and/or Waiver, *Order*, CC Docket No. 95-116 (rel. April 13, 2004).

³ Opposition of Verizon Wireless, pp 1-2.

⁴ Comments of the Cellular Telecommunications Internet Association, p. 3.

⁵ Comments of Nextel Communications, Inc, p. 2.

CRMS carriers and other ILECs have had to expend hundreds of millions of dollars to prepare for LNP. CTIA argues that a grant of a waiver would undermine the Commission's interest in maintaining a uniform rollout date for wireless LNP.⁶ Dobson asks the Commission to "protect the consumer experience."⁷ Verizon laments that any extension makes its job more difficult. It states that the Commission's extension of the deadline to May 24, 2004 "complicated the job of [its] sales and customer care forces to handle porting inquiries from customers."⁸ These large carrier arguments do not reflect an understanding of the financial, technical and staffing realities of small LECs, nor do they acknowledge that there are real, legitimate reasons for waiver of the rules.

The average NTCA member-company employs 34 people and serves less than 6,000 access lines. An inconvenience to Verizon's sales force does not compare to the implementation challenges a rural provider faces. The implementation difficulties are multiplied as the companies get smaller. The Commission gave small carriers additional time to prepare for porting, recognizing their unique circumstances. There is a subset of rural carriers with additional unique circumstances, such as those that must change out equipment, that require some additional time to become fully LNP compliant.

Despite the large wireless carriers' protests, the Commission's recognized that there may be special circumstances that warrant relief. The Commission may waive its rules for "good cause shown."⁹ NEP and other small carriers have limited resources. It is nonsensical to punish them for not upgrading equipment prior to having a firm obligation to do so. Without a request for LNP, NEP had no reason to change out its equipment.

⁶ CTIA Comments, p. 3.

⁷ Opposition of Dobson Communications Corporation, p. 1

⁸ Verizon Opposition, p. 2.

⁹ Telephone Number Portability, *First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 8352 (1996).

When the LNP obligation became clear, NEP pursued a course that would bring it into full compliance, but it cannot reach the target date of May 24, 2004.

Nextel's ability to spend "hundreds of millions of dollars" to prepare to receive ports from wireline carriers in no way impacts or affects NEP's ability to spend its precious and limited resources. NEP did not have hundreds of millions of dollars to spend to have prepared to lose customers based solely on speculation that the FCC would give a large wireless carrier such as Nextel the legal ability, and that a carrier such as Nextel would have the inclination, to make a LNP request.

Given the facts that NEP will become LNP complaint, that there is sparse consumer demand for wireline to wireless porting, and that strict enforcement of the May 24, 2004 deadline would cause irreparable harm to NEP and its customers, good cause exists for granting NEP the temporary waiver. The public interest dictates this result.

Respectfully submitted,

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April 16, 2004

CERTIFICATE OF SERVICE

I, Gail Malloy, certify that a copy of the foregoing Reply Comments of the National Telecommunications Cooperative Association in CC Docket No. 95-116, DA 04-798 was served on this 16th day of April 2004 by first-class, U.S. Mail, postage prepaid, to the following persons.

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